

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ling, Vincent, *et al.*

Application No: 10/824,481

Filed: April 15, 2004

For: *Use of B7-H3 to Inhibit Lymphocyte Proliferation (as amended)*

Examiner: Ouspenski, Ilia I.

Art Unit: 1644

Attorney Docket No.: WYS-005.01

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED
PRIORITY CLAIM UNDER 37 C.F.R. § 1.78(a)(6)

Under 35 U.S.C. 119, and pursuant to 37 C.F.R. § 1.78(a)(6), Applicants respectfully petition the Commissioner to accept the following unintentionally delayed priority claim.

The instant application claims priority to U.S. Provisional Patent application Serial No. 60/463,342, filed April 17, 2003. However, the original priority claim in the instant application unintentionally omitted the priority claim to the aforementioned provisional application. On April 18, 2004, Applicants submitted a Preliminary Amendment correcting the priority claim to U.S. Provisional Patent Application Serial No. 60/463,342. However, Applicants' Preliminary Amendment unintentionally missed the sixteen month deadline from the filing date of the prior-filed provisional application by one day.

The priority claim deadline under 37 C.F.R. § 1.78(a)(5)(ii) was August 17, 2004. Applicants hereby state that the entire delay between August 17, 2004 and the filing date of the instant petition was unintentional.

Adjustment date: 06/24/2009 LDIEP1
02/13/2009 and final date of filing 10824481
01 FC:1454 1410.00 CR

As required under 37 C.F.R. § 1.78(a)(6), submitted herewith are the following:

1. An application data sheet adding the priority claim to the prior-filed application as required by 37 C.F.R. § 1.78(a)(5)(iii);
2. The surcharge as set forth in 37 C.F.R. § 1.17(t); and
3. A statement that the entire delay between the date the priority claim was due under paragraph 37 C.F.R. § 1.78(a)(5)(ii) and the date the claim was filed was unintentional (see above).

The Commissioner is hereby authorized to charge the fee set forth in 37 C.F.R. § 1.17(t) and/or charge any additional required fees or to credit any overpayments to **Deposit Account No. 06-1448, Reference No. WYS-005.01.**

Respectfully submitted,
FOLEY HOAG LLP

Patent Group
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617-832-1000

617-832-7000 (FAX)

Date: February 12, 2009

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6-22-09

2 Serial/Patent # 10/824481

3 Please refund the following fee(s):

4 PAPER
NUMBER

5 DATE
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6 AMOUNT

Filing

Amendment

Extension of Time

Notice of Appeal/Appeal

Petition

Issue

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Assignment

Other

2-12-19

\$ 1,410.00

1454

7 TOTAL AMOUNT
OF REFUND

\$ 1,410.00

8 TO BE REFUNDED BY:

Treasury Check

Credit Deposit A/C #:

06--1448

10 REASON:

Overpayment

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No Fee Due (Explanation):

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11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy

TITLE: Petitions Examiner

SIGNATURE: /Karen Creasy/

PHONE: 2-3208

OFFICE: Petitions

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DATE: 6/23/09

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